



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Elite Healthcare North Dallas

**Respondent Name**

State Office of Risk Management

**MFDR Tracking Number**

M4-17-0775-01

**Carrier's Austin Representative**

Box Number 45

**MFDR Date Received**

November 21, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "These are Workers Compensation claims not Medicare claims and further more are not "paid under the Medicare Physician Fee Schedule. The maximum allowable reimbursement (MAR) for workers compensation is configured by the Final Conversion Factor which is a combination of the Medicare and DWC (Division of Workers Compensation) conversion factors."

**Amount in Dispute:** \$203.72

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The above calculations reflect what the audit should have allowed, Payment for this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(c). Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduce by 50% of the practice expense."

**Response Submitted by:** State Office of Risk Management

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 4, 2015	99361	\$113.00	
December 17, 2015	97112, 97110	\$38.56	\$0.00
December 22, 2015	97112, 97110	\$52.16	

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical

services.

3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 96 – Non-covered charges
  - 309 – The charge for this procedure exceeds the fee schedule allowance
  - P12 – Workers’ compensation jurisdictional fee schedule adjustment
  - 119 – Benefit maximum for this time period or occurrence has been reached
  - 163 – The charge for this procedure exceeds the unit value and/or the multiple procedure rules
  - 168 – Billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services
  - W3 – Additional payment made on appeal/reconsideration
  - 242 – According to the fee schedule, this charge is not covered

### Issues

1. Is the request for MFDR timely?
2. Are the denials or reduction of payment supported?
3. What is the rule that applies to reimbursement?
4. Is the requestor entitled to additional reimbursement?

### Findings

1. The requestor is seeking reimbursement of \$113.00 for professional medical services rendered on September 4, 2015. 28 Texas Administrative Code §133.307(c)(1) states:

Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The date of the service in dispute is September 4, 2015. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on November 21, 2015. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B).

The Division concludes that the requestor has failed to timely file this dispute with the Division’s MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for this date of service. The remaining dates of service will be reviewed per the applicable rule and fee guideline found below.

2. The other services in dispute are for physical therapy codes 97112 and 97110 for the dates of service December 17, 2015 and December 22, 2015. The insurance carrier denied disputed services with claim adjustment reason code 119 – “Benefit maximum for this time period or occurrence has been reached,” 163 – “The charge for this procedure exceeds the unit value and/or the multiple procedure rules,” and 168 – “Billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services.”

The requestor stated, “These are workers compensation claims not Medicare claims and further more are not “paid under the Medicare physician fee schedule.”

However, 28 Texas Administrative Code 134.203 (b) states,

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

- (1) **Medicare payment policies**, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity

areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

Based on the above stated requirement, the following Medicare payment policies were found:

- Medicare claims processing manual at [www.cms.gov](http://www.cms.gov), Chapter 10.7,  
*Medicare applies a multiple procedure payment reduction (MPPR) to the practice expense (PE) payment of select therapy services. The reduction applies to the HCPCS codes contained on the list of “always therapy” services (see section 20), excluding A/B MAC (B)-priced, bundled and add-on codes, regardless of the type of provider or supplier that furnishes the services.*

Therefore, the carrier’s reduction in payment based on “multiple procedure rules” is supported.

3. The workers compensation rule that determines the maximum allowable reimbursement (MAR) is 28 Texas Administrative Code 134.203 (c) which states in pertinent part,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is (date of service yearly conversion factor.)

The calculation of the allowable fees is detailed below:

- Procedure code 97112, service date December 17, 2015. Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduced by 50% of the practice expense. This procedure has the highest PE for this date. The first unit has a MAR of, (WC conversion factor/Medicare conversion factor) x Medicare allowable or  $56.2/35.9335 \times \$34.14 = \$53.40$  for the first unit at \$53.40. The PE reduced rate is \$39.79. The total is \$93.19.
  - Procedure code 97110, service date December 17, 2015. Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduced by 50% of the practice expense. This procedure does not have the highest PE for this date. The PE reduced rate is \$39.09 at 2 units is \$78.18.
  - Procedure code 97112, service date December 22, 2015. Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduced by 50% of the practice expense. This procedure has the highest PE for this date. The first unit is paid at \$53.40. The PE reduced rate is \$39.79. The total is \$93.19.
  - Procedure code 97110, service date December 22, 2015. Per Medicare policy, when more than one unit of designated therapy services is performed on the same day, full payment is made for the first unit of the procedure with the highest practice expense. Payment for each subsequent unit is reduced by 50% of the practice expense. This procedure does not have the highest PE for this date. The PE reduced rate is \$39.09 at 2 units is \$78.18.
4. The total allowable reimbursement for the services in dispute is \$342.74. This amount less the amount previously paid by the insurance carrier of \$329.12 leaves an amount due to the requestor of \$13.62. The carrier included with their position statement a re-audit of the fee calculation and indicated additional reimbursement for \$13.54. Therefore, no additional reimbursement recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

_____	_____	December 6, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**